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14
15 UNITED STATES BANKRUPTCY COURT
16 EASTERN DISTRICT OF CALIFORNIA
17 FRESNO DIVISION

18 19 20 21 22 23 24 25 26	MADERA COMMUNITY HOSPITAL, Debtor. ANTONIO RUBIO, on behalf of themselves and those similarly situated, Plaintiff, v. MADERA COMMUNITY HOSPITAL, Defendant.	Chapter 11 Case No. 23-10457 Adv. Proc. No. _____ Class Action Complaint Jury Demanded
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10. Madera Community Hospital's January 2, 2023, terminations constituted a mass layoff or plant closing which became effective on that same day—January 2, 2023. As such, Plaintiff and other similarly situated employees should have received the full protection afforded by the WARN Act and California WARN Acts and should have been paid their accrued but unused paid time off under the California Labor Code.

16. Venue over this adversary proceeding is proper in this district pursuant to 28 U.S.C. § 1391(b) and 29 U.S.C. § 2104(a)(5).

17. Pursuant to E.D. Cal. Bankr. Local Rule 1002-1, intradistrict assignment to the Fresno Division is proper. The alleged claims arose in Madera and Fresno Counties.

PARTIES

18. Plaintiff Antonio Rubio is a citizen of the United States and resident of Madera County, California. Plaintiff Rubio was employed by Madera Community Hospital at all relevant times. Plaintiff is an “aggrieved employee” within the meaning of 29 U.S.C. § 2104(a)(7) and an “employee” within the meaning of the California WARN Act, Cal. Lab. Code § 1400.5(h).

19. Defendant-Debtor Madera Community Hospital is a not-for-profit 501(c)(3) organization with its principal place of business at 1250 East Almond Ave, Madera, CA, 93637.

20. Defendant-Debtor Madera Community Hospital is the responsible entity for the operation of the facility located at 1250 East Almond Ave, Madera, CA, 93637 as well as the locations at 1210 East Almond Ave, Madera, CA, (“Family Health Services Clinic”), 285 Hospital Drive, Chowchilla, CA (“Chowchilla Medical Center”), and 121 Belmont Ave, Suite 100, Mendota, CA (“Family Health Services Mendota Clinic”).

FACTS

21. Madera Community Hospital is a not-for-profit, freestanding, community-based independent hospital, not associated with any hospital or health system.

22. On or about December 23, 2022, without notice or warning, Madera Community Hospital informed, by written documents and verbal communications, its employees at all of its locations in Madera, Chowchilla, and Mendota, CA, that it was eliminating certain positions and terminating certain employees’ employment effective January 2023 and that terminated employees would perform no additional compensated services.

23. Plaintiff Antonio Rubio was employed as a maintenance mechanic in the engineering department of Madera Community Hospital for approximately 14 years.

24. On January 2, 2023, Plaintiff Antonio Rubio was informed that he had been paid for his time worked and was advised to collect his last paycheck. He did not receive any payment for his outstanding, accrued 368 hours of PTO, and he was not offered any severance.

1 25. In a notice dated January 4, 2023, but which, on information and belief, was not
2 filed with the California Employment Development Department until January 20, 2023, Madera
3 Community Hospital advised that 772 employees of Madera Community Hospital located at the
4 four facilities in Madera, Chowchilla, and Mendota, CA, were separated from employment.

5 26. The Madera Community Hospital did not provide any notice as required by the
6 federal WARN Act, 29 U.S.C. § 2101 *et seq.* or California WARN Act, Cal. Lab. Code § 1401(b),
7 even though it planned to abolish, terminate, and/or layoff more than 100 full-time employees
8 employed at the four facilities.

9 27. Upon information and belief, no circumstances existed that would have permitted
10 Madera Community Hospital to reduce the notification period as provided in 29 U.S.C. § 2102(b)
11 and Cal. Lab. Code § 1401(b).

12 28. By failing to provide its affected employees who were temporarily or permanently
13 terminated on or around January 2, 2023, with WARN Act Notice and other benefits, Defendant-
14 Debtor has acted willfully and cannot establish that it had any reasonable grounds or basis for
15 believing its actions were not in violation of the federal/California WARN Acts.

16 29. By failing to pay accrued vacation time upon termination, Defendant-Debtor is in
17 violation of California Labor Code § 227.3.

18 **RULE 23 CLASS ACTION ALLEGATIONS**

19 30. Plaintiff brings his WARN Act claim and California WARN Act claims as a Class
20 Action pursuant to Federal Rule of Civil Procedure 23 on behalf of the following class:

21 All employees of Madera Community Health in the Madera,
22 Chowchilla, and Mendota, CA facilities, who were terminated pursuant
23 to a mass layoff or termination (as those terms are defined in California
Labor Code § 1400.5) or a mass layoff or plant closing (as those terms
are defined in the federal WARN Act) on or around January 2, 2023.

24 31. Plaintiff brings his claim under the California Labor Code for failure to pay vested
25 vacation pay upon termination pursuant to Federal Rule of Civil Procedure 23 on behalf of the
26 following class:

27 All employees of Madera Community Health in the Madera,
28 Chowchilla, and Mendota, CA facilities, whose employment was

1 permanently terminated or temporarily suspended within 30 days of
2 January 2, 2023 and were not paid their accrued but unused paid time
off as wages upon termination.

3 32. Class Action treatment of federal WARN Act claims, California WARN Act claims,
4 and California Labor Code violation are appropriate because all of Federal Rule of Civil Procedure
5 23's Class Action requisites can be satisfied. For example:

- 6 a. Both classes include, upon information and belief, over 50 class members, and, as
7 such, are so numerous that joinder of all the class members is impracticable under
8 these circumstances, thereby satisfying Federal Rule of Civil Procedure 23(a)(1).
9
10 b. Questions of law and fact are common to the classes, including, *inter alia*, whether
11 Defendant-Debtor provided adequate notice of its mass layoff under the WARN
12 Act, 29 U.S.C. § 2102, and whether Defendant-Debtor failed to pay vested paid time
off. Thus, Plaintiff satisfies Federal Rule of Civil Procedure 23(a)(2).
13
14 c. Plaintiff is a member of both classes, and the claims are typical of the claims of other
15 class members. Plaintiff has no interests that are antagonistic to or in conflict with
16 the interests of other class members. Thus, Plaintiff satisfies Federal Rule of Civil
Procedure 23(a)(3).
17
18 d. Plaintiff will fairly and adequately represent the classes and their interests.
19 Moreover, Plaintiff has retained competent and experienced counsel who will
20 effectively represent the interests of the class. Thus, Plaintiff satisfies Federal Rule
of Civil Procedure 23(a)(4).
21

22 33. Class certification is appropriate pursuant to Federal Rule of Civil Procedure
23 23(b)(1) because the prosecution of separate actions by individual class members would create a
24 risk of inconsistent or varying adjudications which would establish incompatible standards of
25 conduct for Defendant-Debtor and/or because adjudications with respect to individual class
members would as a practical matter be dispositive of the interests of non-party class members.

26 34. Class certification is appropriate pursuant to Federal Rule of Civil Procedure
27 23(b)(2) because Defendant-Debtor acted or refused to act on grounds generally applicable to the
28

1 Class, making appropriate declaratory and injunctive relief with respect to Plaintiff and the class as
2 a whole.

3 35. Class certification is appropriate under Federal Rule of Civil Procedure 23(b)(3)
4 because common questions of law and fact predominate over any question affecting only individual
5 class members, and because a Class Action is superior to other available methods for the fair and
6 efficient adjudication for this litigation.

7
8 **VIOLATIONS OF THE FEDERAL WARN ACT, 29 U.S.C. §§ 2101, *et seq.***
9 **COUNT I**
10 **(WARN Act)**
11 **(On behalf of Plaintiff and All Class Members)**

12 36. Plaintiff re-alleges and incorporates all preceding paragraphs as if set forth in full
13 here.

14 37. Madera Community Hospital is an “employer” within the meaning of the WARN
15 Act, 29 U.S.C § 2101(a)(1).

16 38. Madera Community Hospital employed more than 100 full-time employees for at
17 least six months of the 12 months preceding the date that notice was required under the WARN
18 Act.

19 39. Plaintiff and those he seeks to represent were at all relevant times “affected
20 employees” within the meaning of the WARN Act, 29 U.S.C § 2101(a)(5).

21 40. The January 2, 2023, closure of Madera Community Hospital constituted a “plant
22 closing” as defined in 29 U.S.C. § 2101(a)(2) in that it was a permanent or temporary shutdown of
23 a single site of employment that resulted in an employment loss for 50 or more employees. Upon
24 information and belief, the shutdown will last longer than 30 days.

25 41. The January 2, 2023, permanent layoffs resulted in “employment losses” as defined
26 in 29 U.S.C. § 2101(a)(3)(B)(ii).

27 42. For purposes of 29 U.S.C. § 2101(a)(3)(B), the facilities in Madera, Chowchilla, and
28 Mendota, CA constitute a single site of employment in that the locations are within the same
geographic area, share the same operational purpose, and may share the same staff or equipment.

1 These facilities, collectively, are the places which relevant employees were assigned as their home
2 base, the place from which their work was assigned, and the place where they reported for work.

3 43. The WARN Act requires employers to provide 60 days' notice of any plant closing
4 or mass layoff "to each representative of the affected employees . . . or, if there is no such
5 representative at that time, to each affected employee," 29 U.S.C. § 2102(a)(1), and "to the State
6 or entity designated by the State to carry out rapid response activities under [29 U.S.C. §]
7 3174(a)(2)(A)," as well as to "the chief elected official of the local government within which such
8 closing or layoff is to occur," 29 U.S.C. § 2102(a)(2).

9 44. On information and belief, prior to January 2, 2023, Madera Community Hospital
10 did not give proper prior written notice of the plant closing and/or mass layoff to any "affected
11 employee," including Plaintiff and those he seeks to represent, as that term is defined in 29 U.S.C.
12 § 2101(a)(5). Upon information and belief, nor did Defendant-Debtor give any *prior* written notice
13 to the California Employment Development Department ("EDD"), or to the chief elected official
14 of the local government within which the mass layoff was ordered. Rather, Defendant-Debtor
15 waited until after the layoffs began to do attempt to do so, and its notice was not received by EDD
16 until after the layoffs had occurred.

17 45. Defendant-Debtor violated the WARN Act by failing to give timely written notice
18 as required by 29 U.S.C. § 2102(a) of the mass layoff that began on or about January 2, 2023.

19 46. As such, Plaintiff and those he seeks to represent are "aggrieved employees" within
20 the meaning of the WARN Act, 29 U.S.C. § 2104(a)(7).

21 47. The WARN Act expressly permits an "aggrieved employee" to bring a civil action
22 individually and on behalf of all those similarly situated to seek relief for violations of the
23 provisions of 29 U.S.C. § 2102. *See* 29 U.S.C. § 2104(a)(5).

24 48. Moreover, Defendant-Debtor's violations of the WARN Act were not in good faith,
25 and Defendant-Debtor had no reasonable grounds for believing that the plant closing or mass layoff
26 it ordered was not in violation of the notice requirements at 29 U.S.C. § 2102.

**VIOLATIONS OF THE CALIFORNIA WARN ACT,
CAL. LAB. CODE §§ 1401, *et seq.*
COUNT II
(California WARN Act)
(On behalf of Plaintiff and All Class Members)**

49. Plaintiff re-alleges and incorporates all preceding paragraphs as if set forth in full here.

50. Madera Community Hospital is an “employer” within the meaning of the California WARN Act. Cal. Lab. Code § 1400.5(b).

51. Plaintiff and those he seeks to represent were at all relevant times “employees” within the meaning of the Cal. Lab. Code § 1400.5(h).

52. The January 2, 2023, permanent layoffs resulted in a “layoff,” “mass layoff,” or “termination” as defined in Cal. Lab. Code § 1400.5(c), (d), and (f) in that it was a permanent or temporary shutdown of a single site of employment that resulted in an employment loss for 50 or more employees. Upon information and belief, the shutdown will last longer than 30 days.

53. For purposes of Cal. Lab. Code § 1400.5(a), the facilities in Madera, Chowchilla, and Mendota, CA employed more than 75 persons within the preceding 12 months and constitute a single “covered establishment” in that the locations are within the same geographic area, share the same operational purpose, and may share the same staff or equipment. These facilities, collectively, are the places to which relevant employees were assigned as their home base, the place from which their work was assigned, and the place where they reported for work.

54. The California WARN Act requires employers to provide 60 days’ notice of any plant closing to “the employees of the covered establishment affected by the order” and “[t]he California Employment Development Department, the local workforce investment board, and the chief elected official of each city and county government within which the termination, relocation, or mass layoff occurs.” Cal. Lab. Code § 1401(a)(1)–(2).

55. On information and belief, prior to January 2, 2023, Madera Community Hospital did not give proper prior written notice of the plant closing and/or mass layoff to any “affected employee,” including Plaintiff and those he seeks to represent, as that term is defined in Cal. Lab.

1 Code § 1401(a)(1)–(2). Upon information and belief, nor did Defendant-Debtor give any *prior*
2 written notice to the California Employment Development Department (“EDD”), or to the chief
3 elected official of the local government within which the mass layoff was ordered. Rather, because
4 Defendant-Debtor waited until after the layoffs began to do so or attempt to do so, its notice was
5 not received by EDD until after the layoffs had occurred.

6 56. Defendant-Debtor violated the California WARN Act by failing to give timely
7 written notice of the mass layoff, which began on or about January 2, 2023, as required by the
8 California WARN Act, Cal. Lab. Code § 1401(b).

9 57. The California WARN Act expressly permits a person to bring a civil action
10 individually and on behalf of all those similarly situated to seek relief for violations of the
11 provisions of Cal. Lab. Code § 1404.

12 58. Moreover, Defendant-Debtor’s violations of the WARN Act were not in good faith,
13 and Defendant-Debtor had no reasonable grounds for believing that the plant closing or mass layoff
14 it ordered was not in violation of the notice requirements at 29 U.S.C. § 2102, which are
15 incorporated into the California WARN Act, Cal. Lab. Code § 1401(b).

16 **VIOLATIONS OF THE CALIFORNIA LABOR CODE,**
17 **CAL. LAB. CODE § 227.3**
18 **COUNT III**
19 **(Failure to pay vested vacation pay upon termination)**
20 **(On behalf of Plaintiff and All Class Members)**

21 59. Plaintiff re-alleges and incorporates all preceding paragraphs as if set forth in full
22 here.

23 60. Pursuant to California Labor Code § 227.3, an employer must pay its employees
24 who are entitled to paid vacation days pursuant to a contract of employment or employer policy
25 their accrued but unused vacation pay as wages upon termination.

26 61. Pursuant to company policy, Defendant-Debtor provided Plaintiff and those he
27 seeks to represent with accrued paid time off. Upon the employees’ termination on or about January
28 2, 2023, Defendant-Debtor failed to pay those who were discharged the full amount of their accrued
paid time off as wages. Accordingly, Defendant-Debtor has violated Labor Code § 227.3.

1 **CLAIM FOR PENALTIES UNDER THE LABOR CODE PRIVATE ATTORNEYS**
2 **GENERAL ACT,**
3 **CAL. LAB. CODE §§ 2698-2699 *et seq.***
4 **COUNT IV**
5 **(Penalties under the Labor Code Private Attorneys General Act)**
6 **(On Behalf of Plaintiff and all Aggrieved Employees)**

7 62. Plaintiff re-alleges and incorporates all preceding paragraphs as if set forth in full
8 here.

9 63. Under the Labor Code Private Attorneys General Act, Labor Code §§ 2698-2699 *et*
10 *seq.*, an “aggrieved employee” may bring a civil action on behalf of himself and other employees
11 to recover civil penalties for violations of the California Labor Code. These penalties are in addition
12 to any other relief under the Labor Code.

13 64. Plaintiff brings this claim on behalf of himself and other aggrieved employees of
14 Defendant-Debtor.

15 65. Plaintiff is an “aggrieved employee” within the meaning of California Labor Code
16 § 2699(c), and is a proper representative to bring a civil action on behalf of himself and other
17 employees of Defendant-Debtor.

18 66. As set forth above, Defendant-Debtor committed a violation of the California Labor
19 Code by failing to pay vested vacation pay upon termination, in violation of Cal. Lab. Code. §227.3.

20 67. Plaintiff provided written notice by certified mail to the Labor & Workforce
21 Development Agency (“LWDA”) and to Madera Community Hospital regarding the specific
22 provisions of the Labor Code alleged to have been violated by Defendant-Debtor, including the
23 facts and theories to support the alleged violation, on February 22, 2023. More than 65 days have
24 elapsed since those submissions, and the LWDA has not exercised jurisdiction over the claim for
25 civil penalties under the Private Attorneys General Act. Cal. Lab. Code. § 2699.3(a)(2)(A).
26 Accordingly, Plaintiff and aggrieved employees have exhausted administrative remedies as
27 required by Labor Code § 2699.3.

28 68. Labor Code § 2699(f) sets forth the civil penalty for a violation for which the Labor
Code does not otherwise specify a penalty. Because Labor Code § 227.3 does not specify a penalty

1 for failure to pay vested vacation pay as wages upon the termination of employment, Plaintiff and
2 all other aggrieved employees are entitled to recover the penalty provided by Labor Code § 2699(f).

3 69. Under the Labor Code Private Attorneys General Act, all plaintiffs and aggrieved
4 employees are entitled to recover the maximum civil penalties permitted by law from Madera
5 Community Hospital for the violations of § 227.3 as alleged in this Complaint. All plaintiffs and
6 aggrieved are also entitled to recover their attorneys' fees and costs under Labor Code § 2699(g).

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiff prays for the following relief:

9 1. Certification of the Class as a Class Action pursuant to Federal Rule of Civil
10 Procedure 23(b), and designation of Plaintiff as a representative of the Class and his counsel of
11 record as Class Counsel;

12 2. A declaration that Defendant-Debtor has violated the WARN Act, California
13 WARN Act, and California Labor Code;

14 3. A judgment against Defendant-Debtor and in favor of Plaintiff and those he seeks
15 to represent equal to the sum of: their unpaid wages, salaries, commissions, bonuses, accrued
16 holiday pay, accrued vacation pay, pension and 401(k) contributions and other ERISA benefits, for
17 up to 60 days, that would have been covered and paid under the then-applicable employee benefit
18 plans had that coverage continued for that period permitted by the WARN Act, 29 U.S.C.
19 § 2104(a)(1)(A), California WARN Act, with the first \$15,150.00 of each Class member's allowed
20 claim entitled to wage priority claim treatment under 11 U.S.C. § 507(a)(4) & (5), and any
21 remainder as a general unsecured claim;

22 4. A judgment against Defendant-Debtor and in favor of Plaintiff and those he seeks
23 to represent for the loss of benefits, including, but not limited to, medical expenses incurred by
24 Plaintiff and those he seeks to represent during the employment loss, to the fullest extent allowable
25 under the WARN Act, 29 U.S.C. § 2104(a)(1)(B) and California WARN Act, Cal. Lab. Code
26 § 1402 with the first \$15,150.00 of each Class Member's allowed claimed entitled to wage priority
27 claim treatment under 11 U.S.C. § 507(a)(5), and any remainder as a general unsecured claim;
28

1 5. A monetary award for monies owed under California Labor Code § 227.3 in the
2 maximum amounts permitted by law, with the first \$15,150.00 of each Class member's allowed
3 claim entitled to wage priority claim treatment under 11 U.S.C. § 507(a)(4) & (5), and any
4 remainder as a general unsecured claim;

5 6. A monetary award of civil penalties authorized by the Labor Code Private Attorneys
6 General Act, Labor Code §§ 2698-2699 *et seq.*, in the maximum amount permitted by law;

7 7. A finding that Defendant-Debtor's violations of the WARN Act and California
8 WARN Act were and are willful, not in good faith, and that Defendant had no reasonable grounds
9 for believing that its mass layoff was not in violation of the notice requirements of the WARN Act,
10 29 U.S.C. § 2102, and/or the California WARN Act, Cal. Lab. Code § 1401(b); and Labor Code
11 Private Attorneys General Act, Labor Code §§ 2698-2699 *et seq.*;

12 8. A judgment against Defendant-Debtor and in favor of Plaintiff and those he seeks
13 to represent for litigation costs, expenses, attorney's fees to the fullest extent permitted under the
14 WARN Act, 29 U.S.C. § 2104(a)(6), California WARN Act, Cal. Lab. Code §§ 1404, Cal. Lab.
15 Code § 218.5, and/or Cal. Lab. Code § 2699(g); and for discretionary costs pursuant to Federal
16 Rule of Civil Procedure 54(d);

17 9. An allowed administrative priority claim against Debtors under 11 U.S.C. § 503 for
18 the reasonable attorney's fees and the costs and disbursements that Plaintiffs incur in prosecuting
19 this action, as authorized by the WARN Act, 20 U.S.C. § 2104(a)(3) and (6); the California WARN
20 Act, Cal. Lab. Code § 1403; Cal. Lab. Code. § 227.3; and Cal. Lab. Code § 2699(g); and

21 10. Such other and further relief as this Court deems just and proper and allowed under
22 the WARN Act, California WARN Act, and California Labor Code.

23
24 Dated: May 11, 2023

Respectfully submitted,

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